



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF APRIL 26, 2004

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#04-37 *People v. McGee*, S123474. (A097749; 115 Cal.App.4th 819; San Mateo County Superior Court; SC049252A.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Under *Apprendi v. New Jersey* (2000) 530 U.S. 466, was defendant entitled to a jury trial on the question whether his prior conviction for robbery in Nevada constituted a serious felony for purposes of sentencing under the three strikes law when the elements of the Nevada offense differed from the elements of robbery under California law and the sentencing issue thus depended upon whether the record of the prior conviction established that defendant's prior conduct amounted to robbery under California law?

#04-38 *Morning Star Company v. State Bd. of Equalization*, S123481. (C033758; 115 Cal.App.4th 799; Sacramento County Superior Court; 98AS03539.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) Was the decision by the Department of Toxic Substance Control that every business in the state uses hazardous waste within the meaning of Health and Safety Code 25205.6, such that every nonexempt corporation with more than 50 employees would be subject to the environmental fee assessed under that statute, a "regulation" subject to the provisions of the Administrative Procedure Act (Gov. Code, § 11340 et seq.)? (2) Is the environmental fee assessed by section 25205.6 a

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regulatory fee or a tax? (3) Does imposition of the fee only on corporations with more than 50 employees deny due process or equal protection of the law under the federal or state Constitution?

#04-39 *Henley v. Philip Morris, Inc.*, S123023. (A086991; 114 Cal.App.4th 1429; San Francisco County Superior Court; 995172.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. The court ordered briefing deferred pending decision in *Simon v. San Paolo United States Holding Co., Inc.*, S121933 (#04-26), which includes the following issue: In determining whether an award of punitive damages violated due process under the principles of *State Farm Mut. Auto Ins. Co. v. Campbell* (2003) 538 U.S. 1137408, should the ratio between compensatory and punitive damages be based solely on the actual compensatory damages awarded or on the plaintiff's uncompensated loss due to statutory limitations?

DISPOSITIONS

The following cases were dismissed:

#03-91 *People v. Morrow*, S116409.

#03-141 *People v. Brinar*, S119544.

STATUS

#04-32 *People v. Saunders*, S122744. The court limited review to the following issues: (1) Was defendant, as a passenger in a vehicle subjected to a traffic stop, thereby “detained” for purposes of the Fourth Amendment, thus allowing him to challenge the legality of the stop? (2) Could the vehicle be stopped on reasonable suspicion of Vehicle Code violations, including expired registration, where it exhibited an expired license plate registration tag, and had no front license plate, but also displayed what appeared from a distance to be a current temporary registration permit?

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